

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-24 are pending in this application. Claims 25 and 26 have been newly added by this reply. Claims 1, 12, 23, and 25 are independent. The remaining claims depend from claims 1, 12, 23, and 25.

Claims Amendments

Claims 1, 12, and 23 have been amended to clarify the present invention as recited. Claims 25 and 26 have been newly added by this reply. No new matter is added by way of the newly added claims. Support for the newly added claims may be found, for example, on page 13, paragraph 50, and page 15, paragraph 57 of the specification.

Rejections under 35 U.S.C. § 103

Claim 1-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,246,767 ("Akins") in view of the examiner taking Official Notice.

The claimed invention relates to recording and retrieving encrypted digital data. In particular, the claimed invention provides a method of recording digital data scrambled using a control word. The control word is encrypted using a first key, decrypted with a decoder comprising an equivalent of the first key, and re-encrypted with a second key stored in a portable support device, which is releasably received by the decoder. Further, the re-encrypted control word and the scrambled digital data are recorded on a digital recording medium (*See* Specification, page 3, paragraph 9).

In contrast to the claimed invention, Akins relates to a cable television system that includes services, such as programs, which are broadcast to a plurality of set-top boxes for decryption and display to subscription users. Keys used to encrypt the services and decrypt the

services on the set-top box end may be private or public. These keys are reassigned periodically to avoid piracy issues.

With respect to the rejection of the claims, the Examiner admits that Akins fails to disclose the limitations of the independent claims reciting “re-encrypting the decrypted control word with a second key stored in a portable support device adapted to be releasably received by the decoder, the portable support device adapted for use with a plurality of decoders” and “recording the re-encrypted control word and the scrambled digital data on a digital recording medium.” However, the Examiner takes Official Notice that these limitations are well known in the art. Applicant respectfully disagrees with the position asserted in this Official Notice and requests that the Examiner provide evidence to support this position either in the form of prior art or by providing a affidavit pursuant to 37 C.F.R. 1.104 (d) (2). The Examiner states, as an example of the Official Notice, that when an increased level of security is necessary, the second encryption key makes it more difficult to discover any information. This is a general statement that may be applied in many cases. However, the method used in the present invention, where a decrypted control word is re-encrypted with a second key, and the second key is stored in a portable device adapted to be *releasably* received by the decoder is unique and cannot possibly be well-known in the art.

In view of the above, it is clear that independent claims 1, 12, 23, and 25 are patentable over Akins in view of the Official Notice taken by the Examiner. Dependent claims 2-11, 13-22, and 24 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

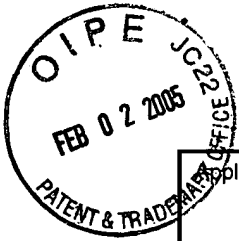
Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345/006002).

Dated: February 2, 2005

Respectfully submitted,

By 

Jonathan P. Osha
Registration No.: 33,986
Osha & May L.L.P.
1221 McKinney, Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)



Application No. (if known): 09/928,648

Attorney Docket No.: 11345/006002

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EV562274856US in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on February 2, 2005
Date

Signature

Yuki Tsukuda

Typed or printed name of person signing Certificate

Registration Number, if applicable

(713) 228-8600
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.